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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,948	09/20/2005	Michael John Watchorn	TEBL4	6001
6980 7590 04/13/2009 TROUTMAN SANDERS LLP BANK OF AMERICA PLAZA 600 PEACHTREE STREET, N.E. SUITE 5200 ATLANTA, GA 30308-2216				
EXAMINER				
SINGH, SUNIL				
ART UNIT		PAPER NUMBER		
3672				
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04/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,948

Applicant(s)

WATCHORN, MICHAEL JOHN

Examiner

Sunil Singh

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-18,20-25, 27-28,29,30,33,34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faber (US 6745714) in view of Moody (US 5860379).

Faber discloses a deployable apparatus: the apparatus having a length dimension and a width dimension, the length dimension being greater than the width dimension and the apparatus being configured so that, in use, the length dimension is generally parallel to the predominant wave direction, the apparatus comprising: at least one a buoyant or semi-buoyant upper surface member having an upper surface (top members in Figure 1) and a lower surface and being disposed in use at or near the water surface; and an array of shaped drag inducing elements (bottom members depicted in Figs. 1,2) disposed adjacent the lower surface. The upper surface member comprises a plurality of flexibly linked buoyant or semi-buoyant sections (see col. 2 lines 20-25). A plurality of flexible fluid retaining structures disposed thereon (42,26,30, see Figs. 1). The flexible fluid retaining structures comprise a network grid of pipes or tubes. The fluid is maintained in the flexible structures under pressure (46,see col. 2 line 50+). At least

one pump (46) for supplying fluid to said flexible fluid retaining structures. Leading inclined end (see Fig. 5).

Faber discloses the invention substantially as claimed. However, Faber is silent about the elements being collapsible or compressible. Moody teaches elements being collapsible or compressible (6a,b,10a,b,12a,b see Figs. 1a,b,2). It would have been considered obvious to one of ordinary skill in the art to modify Faber to include elements that are collapsible or compressible as taught by Moody in order to enhance storage.

3. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faber in view of Moody.

Faber (once modified) discloses the invention except including a single sheet of flexible buoyant or semi-buoyant material. It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Faber by substituting a single sheet of flexible buoyant or semi-buoyant material for the upper surface as disclosed by the (once modified) Faber since it has been held that forming in one piece an article which has formerly been formed in multiple pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faber in view of Moody as applied to claim 17 above, and further in view of Hochschild, III (US 6592416).

Faber (once modified) discloses the invention substantially as claimed. However, the (once modified) Faber is silent about including a flexible drogue. Hochschild III teaches

a flexible drogue(20). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Faber to include drogue as taught by Hochschild since such a modification improves stability.

5. Claims 31,32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manuel (US 3608316) in view of Faber and Moody.

Manuel discloses a system for deploying and recovering an apparatus comprising a deployment vessel, a storage device on the vessel for the apparatus and means for paying out and recovering the apparatus (see Fig. 8). Manuel discloses the invention substantially as claimed. However, Manuel is silent about deploying and recovering an apparatus as called for in claim 17. Faber (as modified) by Moody teaches the apparatus as called for in claim 17 (see discussion above). It would have been considered obvious to one ordinary skill in the art to modify Manuel by substituting the apparatus as taught by Faber (as modified by Moody) for the apparatus disclosed by Manuel since such a modification provides a boat lift away from shore.

Response to Arguments

6. Applicant's arguments filed 12/19/08 have been fully considered but they are not persuasive. Applicant argues that Faber does not disclose a deployable apparatus for creating a local reduction in wave height. The examiner disagrees. Faber clearly discloses a deployable apparatus and it creates a local reduction in wave height. The fact it is used as a boat dock does not preclude it from reducing wave height. Applicant states that the "cells" of Faber are rigid. This is mere speculation and conjecture unsubstantiated by any facts of findings. Applicant argument that Faber does not

reduce waves in offshore environment where the wind and wave forces are of orders of magnitude greater than in a quiet harbor is far more limiting than the claimed subject matter. Applicant argues that the cells for Faber are not strong enough to have meaningful effect in reducing wave height. The examiner disagrees. There is no structural limitation in Faber precluding it from reducing wave height. Applicant argues that there is no motivation to combine Faber with Moody. The examiner disagrees. It would have been considered obvious to one of ordinary skill in the art to modify Faber to include elements that are collapsible or compressible as taught by Moody in order to enhance storage. It should be noted that the "including elements that are collapsible or compressible as taught by Moody" does not mean "adding collapsible or compressible elements" but instead, to modify Faber by making elements (24 of Faber) to be collapsible or compressible as taught by Moody in order to enhance storage. Applicant argues that since none of the other elements of Faber are collapsible it would not be obvious to make member (24 of Faber) collapsible. The examiner disagrees. It would have been considered obvious to one of ordinary skill in the art to modify Faber by making elements (24) collapsible or compressible as taught by Moody in order to enhance storage.

Applicant's arguments with respect to claim 19 have been considered but are moot in view of the new ground(s) of rejection.

With regards to claim 26, in response to applicant's argument that there is no motivation to modify Faber to include a drogue anchor to reduce wave height, the fact that applicant has recognized another advantage which would flow naturally from

following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). The drogue as taught by Hochschild provides stability to Faber.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

Sunil Singh
Primary Examiner
Art Unit 3672

SS

4/9/09